

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG

LARRY ARNOLD YOUNG,

Plaintiff,

v.

CIVIL ACTION NO. 3:06-CV-110
(BAILEY)

DOMINIC A. GUTIERREZ, SR.,
S.I.S. TECH KOVSCEK AND
WAYNE WORKMAN,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATIONS

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation of United States Magistrate Judge James E. Seibert. By Standing Order, this action was referred to Magistrate Judge Seibert for submission of proposed report and a recommendation ("R & R"). Magistrate Judge Seibert filed his R & R on June 2, 2008 [Doc. 52]. In that filing, the magistrate judge recommended that this Court grant the defendant's Motion to Dismiss and to dismiss the complaint with prejudice.

Pursuant to 28 U.S.C. § 636 (b) (1) (c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*,

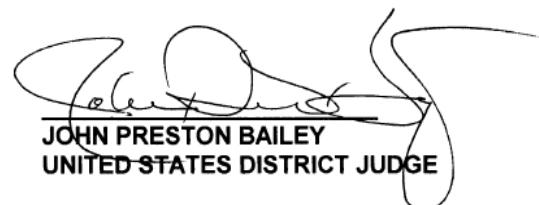
727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Seibert's R & R were due within ten (10) days after being served with a copy of the R & R pursuant to 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b). The docket reflects that service was refused, and the same was returned to the Clerk's office on June 18. As such, the Court notes that service was effected on or before that date. To date, neither party has filed objections. Accordingly, this Court will review the R & R for clear error.

Having reviewed the record and the magistrate judge's R & R, it is the opinion of this Court that the recommendations of Magistrate Judge Seibert [**Doc. 52**] should be, and are, hereby **ORDERED ADOPTED** for reasons more fully stated in that report. As such, the Court hereby **GRANTS** the defendant's Motion to Dismiss, or for Summary Judgment [**Doc. 44**] and **DISMISSES** the plaintiff's Complaint [**Doc. 1**] with prejudice. Accordingly, this action is **ORDERED STRICKEN** from the active docket of this Court.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to all counsel of record and to mail a copy to the *pro se* petitioner.

DATED: June 30, 2008.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE